



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 24, 1996

Mr. Kevin Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR96-1923

Dear Mr. Pagan:

You have asked whether certain information is excepted from required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#101900.

The City of McAllen (the "city") received a request for information in which the requestor seeks records about a particular individual who is the subject of a background investigation conducted by the Texas Education Agency ("TEA"). Specifically, the requestor seeks "correct copies of offense, incident, and investigation reports, including witness statements, confessions, photographs, diagrams, medical reports and all other reports or information related to" the referenced incident. You contend that the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

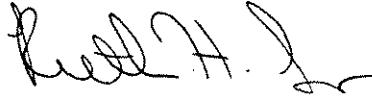
Initially, we note that the offense report submitted to this office does not correspond to the request for records from TEA. Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile on September 12, 1996, that you had failed to submit information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. You did not, however, submit to this office copies or representative samples of the specific information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information.

Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); see also Open Records Decision No.

150 (1977) (presumption of openness overcome by showing information was made confidential by other law or affects third party interests).

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

SAB/RHS/ch

Ref.: ID# 101900

Enclosures: Submitted documents

cc.: Ms. Susan Starks, Investigator
Division of Legal Services
By Direction of
Maggie H. Montelongo
Assistant Chief Counsel
1701 North Congress Avenue
Austin, Texas 78701-1494
(w/o enclosures)